



**CITY OF COLUMBUS  
BOARD OF ZONING APPEALS  
(October 23, 2012 Meeting)**

**STAFF REPORT**

**Docket No. / Project Title:** C/DS-12-24 (Kurt and Rebecca Ellis)  
**Staff:** Thom Weintraut  
  
**Applicant:** Kurt and Rebecca Ellis  
**Property Size:** 32,664 square feet  
**Current Zoning:** RS2 (Residential: Single-Family 2)  
**Location:** 3545 Woodside Drive, City of Columbus

**Background Summary:**

The applicant has indicated that the proposed variance from Zoning Ordinance Section 9.3(C)(2) is for the purpose of allowing an 8 ft. fence in a front yard, 54 inches taller than the 42 inch maximum.

**Preliminary Staff Recommendation:**

Denial, Criteria 2 & 3 have not been met.

If the Board of Zoning Appeals should choose to approve the petition, the following condition should be added: The fence be setback 10 feet from right-of-way line.

**Zoning Ordinance Considerations:**

**District Intent:** The intent of the RS2 (Residential: Single-Family 2) is to provide areas for moderate density single-family residences in areas with compatible infrastructure and services. Development in this district should generally be serviced by sewer and water utilities and have convenient access to Collector and Arterial streets, parks, open space, employment, and convenience goods.

**Development Standards:** Zoning Ordinance Section 9.3 (C)(2) states that for residential uses, no fence or wall shall exceed a height of 8 feet in any side or rear yard or 42 inches in any front yard.

Current Property Information:	
Land Use:	Single-family residential
Site Features:	Residence and in ground pool
Flood Hazards:	None.
Vehicle Access:	The property gains access from Woodside Drive (Local, Residential, Suburban street).

<b>Surrounding Zoning and Land Use:</b>		
	<b>Zoning:</b>	<b>Land Use:</b>
<b>North:</b>	RS2 (Residential: Single-Family 2)	Single-family residential
<b>South:</b>	RS2 (Residential: Single-Family 2)	Single-family residential
<b>East:</b>	RS2 (Residential: Single-Family 2)	Single-family residential
<b>West:</b>	RS2 (Residential: Single-Family 2)	Single-family residential

<b>Interdepartmental Review:</b>	
<b>City Engineering:</b>	No impact to drainage or access to the site.
<b>City Utilities:</b>	No comments.
<b>Fire Department</b>	No impact.

### **Planning Consideration(s):**

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The lot has a considerably wide front yard because Woodside Drive wraps along the front of the lot from the rear property line around past the front entrance of the house. The front yard area includes the yard in front of the primary entrance of the structure and the south plane of the structure. The property owners are requesting to enclose the portion of the front yard located on the south side of the house for an entertainment and play area. The house on the subject property is located close to the rear of the property thereby reducing the area for a rear yard.
2. There is currently a 6 foot fence that surrounds an existing swimming pool on the south side of the house. Under the pre-2008 zoning ordinance, fences were allowed to be constructed in a front yard area that did not contain the primary entrance to a structure.
3. The current fence is only 10 feet from the southern edge of the pool deck and runs adjacent to the pool deck on the west side.
4. The Zoning Ordinance limits the height of the fence in the front yard to avoid walls or fences from obscuring structures on the subject property or adjacent properties and creating unappealing views from the surrounding area. The lot contains several trees in this front yard and the property owners state they will not be removing any trees to help screen the fence, however this is no guarantee that trees would not be removed in the future by subsequent owners or acts of nature.
5. The property owner's state that because of the pool, the area to the south of the pool is the only location to utilize as a backyard play area. There is an area on the north side of the house that could be enclosed with an 8 foot fence and utilized as a back yard play area.
6. The minimum front setback for residential structures in the RS2 (Single-family 2) zoning district is 10 feet where there is not an attached garage facing the street. If the Board considers allow a fence that exceeds that 42 in maximum height in the front yard, the fence should be set back 10 feet from the right-of-way line.

### **Provisional Findings of Fact/Decision Criteria:**

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

*Provisional Findings:* The approval will not be injurious to the public health, safety, morals and general welfare of because the fence is located outside of public right-of-way and should not hinder access, circulation, or traffic visibility along Woodside Drive. *This criterion has been met.*

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

*Provisional Findings:* The use and value of the area adjacent to the property included in the variance may be affected in an adverse manner because constructing a fence above 42 inches in height in the front yard could be unsightly particularly if the existing trees no longer screen the fence from the street and neighboring properties. *This criterion has not been met.*

- 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

*Provisional Findings:* The strict application of the zoning ordinance will not result in practical difficulties in the use of the property because the area outside the fence line can be used for entertainment. In addition there is a rear and side yard area northeast of the residential dwelling that could be fenced and used as a play area for children. *This criterion has not been met.*

### **Board of Zoning Appeals Options:**

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

**Columbus – Bartholomew County Planning Department**  
**Development Standards Variance Application**

**Planning Department Use Only:**

Jurisdiction: ☐ Columbus ☐ Bartholomew County

Zoning: RS-2  
Docket No.: CD5-12-24

Hearing Procedure: ☐ Hearing Officer ☒ Board of Zoning Appeals

*Received 9/17/12*

08:06990 34785 PEF

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**Development Standards Variance Application:**

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**Applicant Information:**

Name: ROI Consulting/Consulting LLC *KURT + REBECCA ELLIS*  
Address: 3807 Bonaventure Dr. 3545 WOODSIDE DRIVE Columbus IN 47203  
(number) (street) (city) (state) (zip)  
Phone No.: 812-447-0704 Fax No.: 812-378-4106 E-mail Address: rgostby@comcast.net  
*812-372-9966* *THEKLA@YAHOO.COM*

*GW*  
*10/16/2012*

**Property Owner Information (the "owner" does not include tenants or contract buyers):**

Name: Kurt & Rebecca Ellis  
Address: 3545 Woodside Drive Columbus IN 47203  
(number) (street) (city) (state) (zip)  
Phone No.: 317-372-9966 Fax No.: \_\_\_\_\_ E-mail Address: thekla@yahoo.com

**Notification Information (list the person to whom all correspondence regarding this application should be directed):**

Name: ROI Consulting/Construction LLC  
Address: 3807 Bonaventure Drive Columbus IN 47203  
(number) (street) (city) (state) (zip)  
Phone No.: 812-447-0704 Fax No.: 812-378-4106 E-mail Address: rgostby@comcas.net

How would you prefer to receive information (please check one): ☒ E-mail ☐ Phone ☐ Fax ☐ Mail

**Property Information:**

Address: 3545 Woodside Drive Columbus IN 47203  
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):

**Variance Requested:**

I am requesting a variance from Section \_\_\_\_9.3(C)(2)\_\_\_\_\_ of the Zoning Ordinance to allow the following:

A 8' cedar fence along the South Property line and a 6' cedar fence west of the existing pool. Both locations are considered front yards by the Zoning Ordinance. A new 8" tall cedar fence 250" long has been installed in the back yard of this property. A survey was performed by E. R. Gray that identified that the south east rear property line extended 50" farther south past the original 6" existing fence that runs east and west. The property owners are aware that they can continue with the new 8" cedar fence 50 " to the south on the east property line, but are requesting the approval of this variance to extend the new 8" cedar fence on the south property line and tapering the fence in height down to 6" then turn north and connect back to the existing 6" fence. The proposed structure does not block any drainage ways, visibility triangles and will have no impact on public safety. The fence will be set back \_\_\_\_ from Woodside Drive.

**Variance Request Justification:**

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

**The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

This will provide safety for the homeowner's pool and the neighborhood \_\_\_\_\_

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**The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

This neighborhood is an upscale neighborhood. This will improve the aesthetic values of the neighborhood and adjacent neighbors.

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**The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.**

\_It address corner lots. This lot is a unique shape. It is not your typical shaped lot. It is narrow and long. The pool could not have gone up anywhere else. The fence is needed for safety reasons. There is a large set back on the lot. \_\_\_\_\_

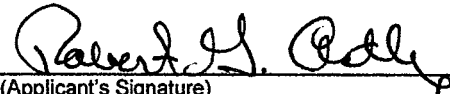
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**Applicant's Signature:**

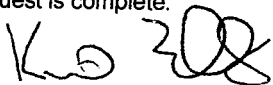
The information included in and with this application is completely true and correct to the best of my knowledge and belief.

 **ROI CONSULTING**  
(Applicant's Signature)

**SEPT 17, 2012**  
(Date)

**Owner's Signature** (the "owner" does not include tenants or contract buyers):

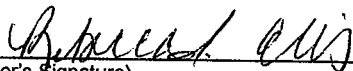
I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.



\_\_\_\_\_  
(Owner's Signature)

8.17.12

\_\_\_\_\_  
(Date)



\_\_\_\_\_  
(Owner's Signature)

8/17/12

\_\_\_\_\_  
(Date)

RECEIPT

COLUMBUS PLAN COMMISSION

No 7832

General FUND

COLUMBUS IN. 9/17 2013  
RECEIVED FROM Kurt Ellis  
THE SUM OF One Hundred Dollars 09/17  
ON ACCOUNT OF Duane 100 DOLLARS \$100.00

PAYMENT TYPE & AMOUNT

CASH CHECK 1056 M.O.

E.F.T. C.C./BC OTHER

AUTHORIZED SIGNATURE

Duane Bork





✓ PROPERTY LINE TO THE SOUTH

Printed: 09/12/12





EXTEND NEW 6' CEDAR FENCE FROM SOUTH WEST PROPERTY PIN AND CONNECTING TO EXISTING 6' CEDAR FENCE

PROPOSED NEW 8' FENCE REDUCING DOWN TO 6' AT THE SOUTHWEST PROPERTY PIN

Disclaimer:

Printed: 09/12/12





## MEMORANDUM

**TO:** ROI Consulting/Construction LLC  
**FROM:** Thom Weintraut  
**DATE:** October 2, 2012  
**RE:** Ellis Fence Variance

**Comments:**

1. There is an existing fence now surrounding the pool, why do the property owner's need to extend it to the southern property line?
2. Is there a particular hardship that would keep them from replacing the fence in the current location?
3. Even though there is an expanse of right-of-way south of the proposed fence on the south property, the fence will extend to the right-of-way on the west side. Is there a unique need for the fence to extend to the southern property line?
4. Is it necessary for the fence on the southern end of the property to be 8 feet tall? The is more than twice what is permitted in a front yard?

I have not received comments from any other departments yet. I have asked that they respond by next Tuesday.

# RESPONSES FROM 3545 WOODSIDE DRIVE

## Comments:

1. There is an existing fence now surrounding the pool, why do the property owner's need to extend it to the southern property line?

With our recent land survey we were made aware of the full size of our property; given the layout of the property, extending the fence to incorporate all of our yard will allow us full use of our property which will be used as entertaining space. We have no property to the rear of the house so the side yard makes up for this loss. In addition the existing fence is very near the pool, approximately 10 ft. Extending the fence in the side yard allows for additional space near the pool, increasing the safety. Finally, extending the fence allows our child and her friends to be visible from the house as they play in this area of the property; without moving the fence, our child is not visible.

2. Is there a particular hardship that would keep them from replacing the fence in the current location?

Extending the fence will allow our daughter to play safely in our yard and allow us to supervise her while we are in the yard and pool area. Because we have a pool and are required to have a fence the current design excludes our full use of our property and visualization of our yard.

3. Even though there is an expanse of right-of-way south of the proposed fence on the south property, the fence will extend to the right-of-way on the west side. Is there a unique need for the fence to extend to the southern property line?

This is addressed in the prior two questions and specifically, we have no real backyard so this additional land inclusion will provide us the yard space we need while maintaining safety around the pool area.

4. Is it necessary for the fence on the southern end of the property to be 8 feet tall? The is more than twice what is permitted in a front yard?

This portion of the property is triangular in shape and follows the road so while this might be considered a front yard, it really is our side yard. Also this area surrounds the pool and requires different height requirements.

RECEIVED  
OCT 05 2012  
BY: SB

## Weintraut, Thom

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**From:** Noblitt, Matt  
**Sent:** Wednesday, October 03, 2012 7:53 AM  
**To:** Weintraut, Thom  
**Subject:** RE: Ellis Variance

Columbus Fire does not have any issues with this request.

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**From:** Weintraut, Thom  
**Sent:** Tuesday, October 02, 2012 12:50 PM  
**To:** Bergsieker, Ed; Rucker, Steve; [bthompson@bartholomew.in.gov](mailto:bthompson@bartholomew.in.gov); Noblitt, Matt  
**Subject:** Ellis Variance

I have attached the site plan and application, I have photos of the existing area if you want them.

**Thomas A. Weintraut, Jr., AICP**  
Senior Planner

City of Columbus – Bartholomew County  
Planning Department  
123 Washington Street Suite 8  
Columbus, IN 47201  
PH 812.376.2550 Fax 812.376.2643  
[www.columbus.in.gov/planning](http://www.columbus.in.gov/planning)





## Weintraut, Thom

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**From:** Rucker, Steve  
**Sent:** Wednesday, October 03, 2012 11:56 AM  
**To:** Weintraut, Thom  
**Subject:** RE: Ellis Variance

Thom,

Regarding CDS-12-24, 3545 Woodside Drive, a variance request to allow a fence in the front yard setback:  
This proposal will not significantly impact access or drainage on the site.

Thanks,

Steve Rucker  
Assistant City Engineer  
123 Washington Street, Columbus, Indiana 47201  
ph: 812-376-2540  
[srucker@columbus.in.gov](mailto:srucker@columbus.in.gov)

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**From:** Weintraut, Thom  
**Sent:** Tuesday, October 02, 2012 12:50 PM  
**To:** Bergsieker, Ed; Rucker, Steve; [bthompson@bartholomew.in.gov](mailto:bthompson@bartholomew.in.gov); Noblitt, Matt  
**Subject:** Ellis Variance

I have attached the site plan and application, I have photos of the existing area if you want them.

**Thomas A. Weintraut, Jr., AICP**  
Senior Planner

City of Columbus – Bartholomew County  
Planning Department  
123 Washington Street Suite 8  
Columbus, IN 47201  
PH 812.376.2550 Fax 812.376.2643  
[www.columbus.in.gov/planning](http://www.columbus.in.gov/planning)



**Weintraut, Thom**

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**From:** johnnash1 <johnnash1@comcast.net>  
**Sent:** Friday, October 05, 2012 5:36 PM  
**To:** Weintraut, Thom  
**Subject:** Ellis request for variance

Dear Mr. Weintraut,

I am writing in support of the variance being requested by my neighbors, Kurt and Rebecca Ellis, in connection with their plans to extend their pool fence to the south side of their property.

This area is their side yard, and I believe this extension will not be adverse in any way to the appearance of the Ellis property nor any other properties in our neighborhood.

I know that Mr. and Mrs. Ellis will do everything necessary to make sure this property improvement meets all zoning and planning requirements.

Yours truly,

John Nash

3660 Woodside Drive  
Columbus

## Weintraut, Thom

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**From:** Force, Clayton <cforce@forceco.com>  
**Sent:** Friday, October 12, 2012 9:17 AM  
**To:** Weintraut, Thom  
**Subject:** Zoning Application C/DS-12-24  
**Attachments:** CLAYTON FORCE PE .vcf

Dear Mr. Weintraut,

This email is in response to the Public Notice we have received regarding variance request application C/DS-12-24 filed by Kurt and Rebecca Ellis. It is our understanding that a variance is sought from ordinance 9.3(C)(2) and that the variance request is for an 8-foot fence to be installed on a portion of the Ellis' property classified as a front yard.

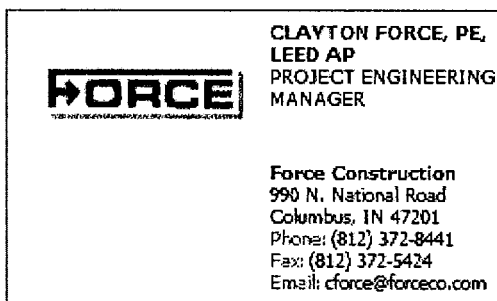
Our property is immediately across the street from the Ellis' and is in clear view of the portion of their property where the proposed fence would be located. The Ellis' have explained to us and others in the neighborhood the location and appearance of the fence they wish to build. The proposed location of the fence would be behind existing mature trees, would include materials and finishes that would complement their home and that would not detract in any way from the appearance of the neighborhood or their property. We have no issues or concerns with a fence being constructed as requested.

It is also our understanding that they may wish to purchase or construct an ancillary structure in their back yard at some point in the future. Allowing a higher fence to be constructed may prove beneficial by helping to protect from view any improvements that may otherwise be visible from adjacent properties.

Given the Ellis' high standard to which they maintain their property, have completed home improvements and renovations, and the pride they take in our neighborhood and community, we have no reason to believe that the fence they seek to construction would adversely affect our property or any others in the area in any way. We take no objection to this variance request and would ask the Planning Department or the Board of Zoning Appeals to consider their request as submitted.

Respectfully,

Clayton and Angela Force



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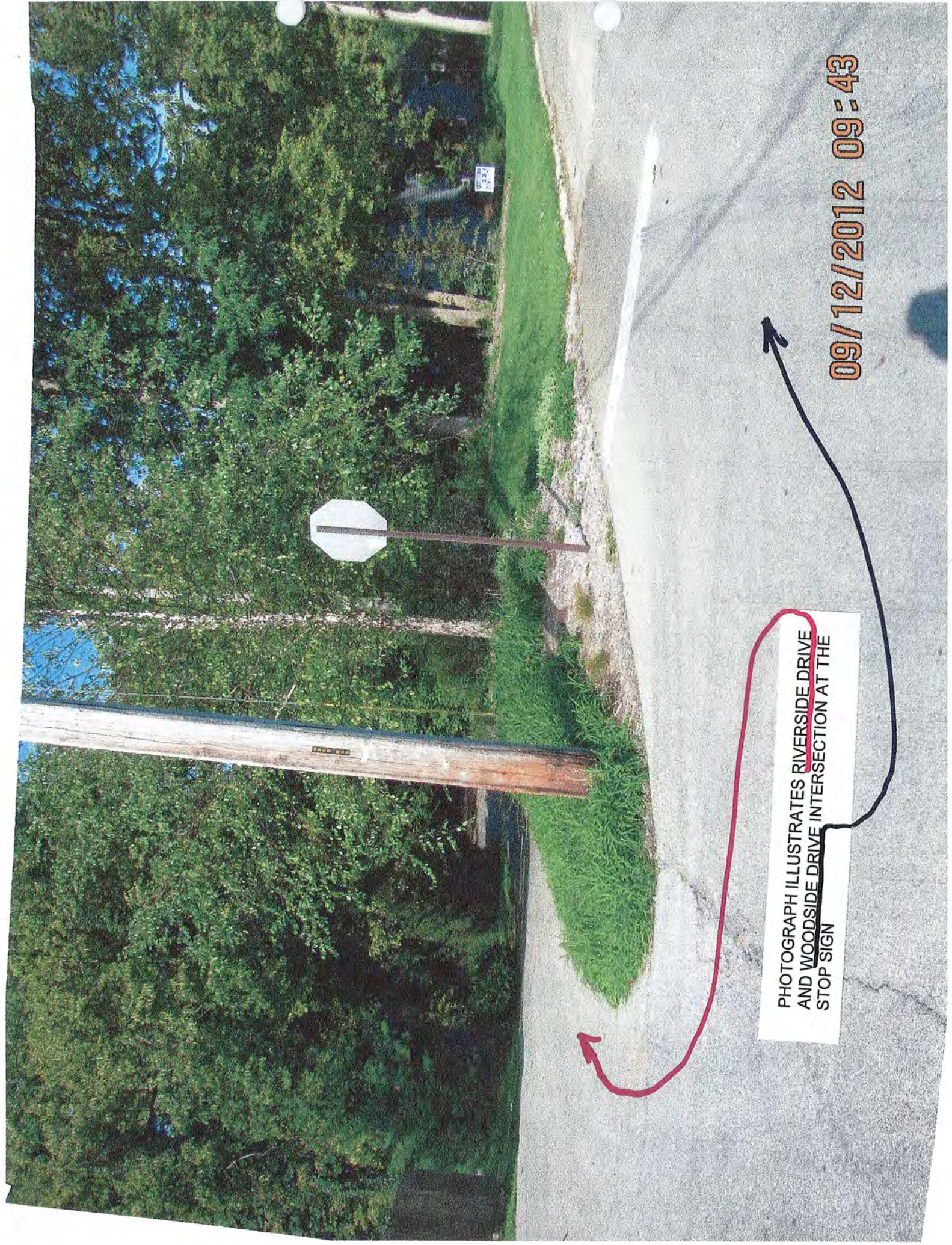


THERE WILL BE NO VIEW OBSTRUCTED FOR  
VEHICLES

PHOTOGRAPH INDICATES LOOKING NORTH  
WEST DOWN WOODSIDE DRIVE

09/12/2012 09:43





PHOTOGRAPH ILLUSTRATES RIVERSIDE DRIVE  
AND WOODSIDE DRIVE INTERSECTION AT THE  
STOP SIGN

09/12/2012 09:43





PHOTOGRAPH ILLUSTRATES INTERSECTION OF  
RIVERSIDE DRIVE, ALLEY, AND WOODSIDE DR.

09/12/2012 09:43



WOODSIDE DR

✓ NEW FENCE LOCATED SOUTH EAST CORNER OF  
WASHINGTON AND ROCKY FORD

09/12/2012 09:42



✓ NEIGHBOR'S NEW 6' FENCE AT THE SOUTH EAST  
CORNER OF ROCKY FORD AND WASHINGTON ST.

NEIGHBOR'S EXISTING 6' FENCE AT THE SOUTH  
WEST CORNER OF RIVERSIDE DRIVE AND  
WASHINGTON ST.

09/12/2012 09:37



NO TREES WILL BE REMOVED

09/12/2012 09:41

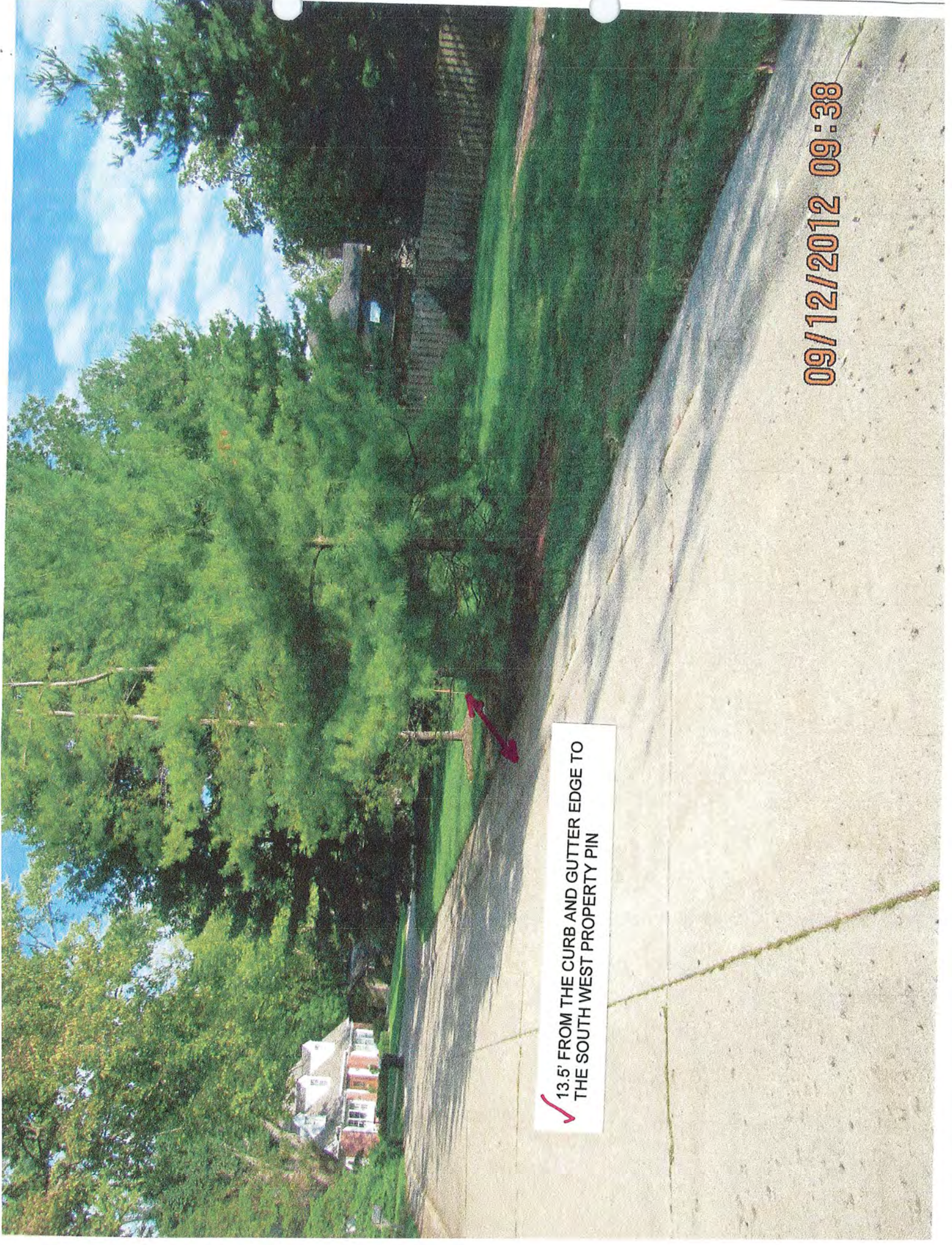
✓ PHOTOGRAPH ILLUSTRATING SOUTH WEST  
PROPERTY PIN





✓ 13.5' FROM THE CURB AND GUTTER EDGE TO  
THE SOUTH WEST PROPERTY PIN

09/12/2012 09:38







✓ PHOTOGRAPH ILLUSTRATING SOUTH EAST  
PROPERTY PIN

✓ PHOTOGRAPH ILLUSTRATING SOUTH WEST  
PROPERTY PIN

09/12/2012 09:41





FROM THE SOUTH WEST PROPERTY PIN THE  
FENCE WILL GO BETWEEN THE TREES AND TIE  
BACK INTO THE EXISTING 6' FENCE

08/20/2012 14:01





THERE WILL BE 59' FROM THE EDGE OF THE  
STREET GUTTER CURB TO THE NEW PROPOSED  
FENCE

09/12/2012 09:44



09/12/2012 09:44







09/12/2012 09:37

✓ 59' FROM THE CURB AND GUTTER EDGE OF THE  
SIDEWALK TO THE SOUTH EAST PROPERTY PIN

✓ CURRENT PROPERTY OWNER'S 6' FENCE